

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: September 6-7, 2006

Reference No.: 2.4d.(2)
Action Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Bimla G. Rhinehart
Division Chief
Right of Way and Land Surveys

Subject: **DIRECTOR'S DEEDS**

RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission authorize the execution of the Director's Deed summarized below. The conveyance of excess Department-owned real property is pursuant to Section 118 of the Streets and Highways Code. The Director's Deed included in this item involves an estimated current value of \$0. The Department will not receive a return of funds from the sale of this property. A recapitulation of the item presented and corresponding map is attached.

05-SB-144 PM 1.8

Disposal Unit DD 007226 01 01

DK 007224 01 01

DK 009487 01 01

Convey to SYCAMORE CANYON
LANDSLIDE REPAIR INC.

Montecito

2.9 ac

.831 ac (Easement)

3,330 sf (Easement)

\$0 (Appraisal \$0)

Direct conveyance in settlement of action for damages filed in Santa Barbara County Superior Court. The Settlement and Release Agreement is dated June 30, 2006.

INTRODUCTION

The subject conveyances, DD 7226-01-01, DK 7224-01-01, and DK 9487-01-01, derive from a lawsuit and subsequent settlement that pertain to a landslide incident and series of events that resulted in damages associated with land owned by the Department and a related project in conjunction with the slide area. This report describes the nature of the conveyance, the grantee, the basis for the conveyance, the significance of the subject area, slide history, the formation of the grantee corporation, and the basis for valuation.

CONVEYANCE

The conveyance consists of land owned by the Department (Parcel Numbers 7226-01-01 and 7227-01-01), a slope easement (7224-01-01 and 7225-01-01), and a drainage easement (9487-01-01). This conveyance complies with and is in response to the "Settlement and Release Agreement", dated June 30, 2006, the terms of which were given Departmental approval by Director

Will Kempton, Chief Counsel Bruce Behrens, and Division Chief Bimla Rhinehart. In addition, because of the amount of the settlement, Governor's Office approval was obtained. The Governor's Office approved the terms of the settlement on June 29, 2006.

GRANTEE

The Grantee, known as Sycamore Canyon Landslide Repair Inc. (hereinafter the Corporation), is a group comprised of 68 individuals and one Homeowners Association who were the original plaintiffs in the lawsuit filed with the Santa Barbara County Superior Court.

BASIS FOR CONVEYANCE

The aforementioned settlement was born out of an action for damages to 37 homes caused by a landslide at State Route (SR) 144, as it runs through the Sycamore Canyon area of the city of Santa Barbara (City). The slide began in January of 2005 on four acres of hillside owned by the Department, that adjoin the highway. The slide stabilized in June 2005, but it has not yet been repaired and continues to block a section of the highway. The 68 plaintiffs blame the event on the Department's faulty repair of a 1998 slide at the same location.

The settlement of this case, involving several components and the payment of attorneys' fees and costs, consists of a cash payment of \$17.8 million for damages, payment into a contingency fund of \$3 million for future repair of catastrophic damage, funding a repair of the landslide for \$50 million.

SUBJECT AREA

SR 144 is a short (approximately two miles long) two-lane portion of Sycamore Canyon Road that winds through canyon area, located between SR 101 (PM 0.0) and SR 192 (PM 1.95) in Santa Barbara County. In 1999, Senate Bill 557 authorized a relinquishment of SR 144 to the City. However, the portion in and around the junction of Ranchito Vista Road (PM 1.80) and the subject of this conveyance is an area that has been impacted by landslides over the past ten years and has been subject to frequent closure. Consequently, the City has denied ownership of that portion of SR 144 until such time as repairs are made to the slide area. The highway currently remains closed to through traffic.

SLIDE HISTORY

The slide began in January 2005, when, after a period of concentrated rain, the hillside began sliding toward a residence at the bottom of the hill. The slide accelerated from January 2005 to June 2005 and expanded by progressing uphill and widening beyond the area of the previous 1998 slide. The new slide unsettled Canyon View Road, a private road providing access to a number of the homes. It also destroyed one property at the top of the hill and caused physical damage to others. To date, between ten and 15 properties have identifiable physical damage in varying degrees alleged to be from the 2005 slide. Other homeowners claim that they are affected by restrictions on vehicular access through Canyon View Road, the closure of SR 144, and the refusal of the Montecito Fire Department to send emergency equipment through Canon View Road.

The slide site is a steep hillside developed with private homes and streets. The current slide is a reactivation and expansion of a 1998 landslide in the same location. In response to the 1998 slide, the Department took short-term mitigation measures to stabilize the hillside in order to protect the highway, including construction of a rock and debris barrier at the base of the slope, installation of drainage improvements and temporary traffic re-routing. The Department acquired Parcels 7226 and 7227, along with the corresponding easements, in order to effect repairs. The work entailed removal of approximately 10,000 cubic yards of slide material and was done at a cost of \$400,000, expended under a Director's Order. After it became apparent that the area was still unstable, the Department, under pressure from the City and the residents of the area, undertook a project to remove approximately 130,000 cubic yards of dirt and to re-grade of the hillside. That work (Contract No. 05-0M8209) began in January 2000 and was completed in December 2001, with a final cost of some \$5 million, including right of way costs for acquisition of parcels required for the project. Since the completion of the project in 2001, the Department has owned and maintained the four-acre slide area.

After the slide reactivated in January 2005, it progressed upward and outward from the 1998 slide area. It eventually encroached on a large portion of the northbound lane of SR 144 and the highway was closed at Post Mile 1.80 in June 2005. An approximately 200-foot section of highway has remained closed since then. The remainder of SR 144 remains open.

FORMATION OF SYCAMORE CANYON LANDSLIDE REPAIR INC.

In October 2005, a group of 68 individuals (homeowners in the slide area) and one Homeowners Association, who would later form into the corporation known as Sycamore Canyon Landslide Repair Inc. (the Corporation), filed with the Santa Barbara County Superior Court a multiple Complaint, a Petition for Writ of Mandate and a Request for Temporary and Permanent Injunctions against the State of California (Ref. Alexander v. State of California, SBCSC Case No. 01185586).

These plaintiffs alleged that the Department's excavation of large amounts of soil from the canyon slope after the 1998 landslide destabilized the area and that this destabilization caused the 2005 landslide. Specifically, they claim that the Department's project, which entailed the removal of 130,000 cubic yards of dirt from the hillside, removed the toe of the slope, thereby causing the 2005 slide. The claim included a total loss for seven homes (valued in and around two million dollars each); damage to the remaining 37 properties by a significant reduction of value due to loss or impairment of access, restriction of emergency services, and slide "stigma"; and personal injury losses due to emotional distress, which are subjective and in the discretion of the jury.

The litigation proceeded at an accelerated pace. The action was filed in October 2005, and the court set a trial date of March 28, 2006, only two months later, before the case was even at issue. This schedule is unprecedented for a case of this magnitude, particularly in view of the number of plaintiffs. On April 14, 2006, the Corporation and the Department entered into a "Stipulation for Settlement" and an "Agreement of Settlement Term" for complete and final satisfaction of all past and future claims for compensation, damages, injuries and losses alleged by the Corporation, arising from construction activities of the Department's SR 144 Project. The settlement was negotiated by and between the attorneys for the Department and the Corporation with the assistance of a mediator.

The terms of the settlement were given Departmental approval on June 30, 2006 (reference names and officers at the beginning of this report).

In part, the settlement stipulates that the Department shall convey fee ownership of the property, including corresponding slope and drainage easements over adjacent privately owned land, to the Corporation to the extent that the properties are not required for the right of way for the Department's operation of SR 144 as a traveled way.

VALUATION

The primary focus of the valuation was to determine if the parcels and corresponding interests have any effective market value for purposes of decision making relative to final case negotiations and settlement issues. In part, this study included a geological survey dated June 7, 2006. This study concluded that the parcels are on an active, deep-seated landslide of highly fractured shale bedrock and, if left un-repaired, the area will continue to experience down-slope movement that will ultimately compromise adjacent properties currently not affected. Consequently, any potential viable use, non-intensive or otherwise, would be prohibited without remediation for reasons of instability, safety and liability. Accordingly, tests of Highest and Best Use demonstrate and conclude that the subject parcels cannot be utilized as functional parcels in the market. Thus, it was the opinion of both the Department's appraiser and an independent appraiser that the parcels do not have a use that holds value in the real estate market.

Attachments

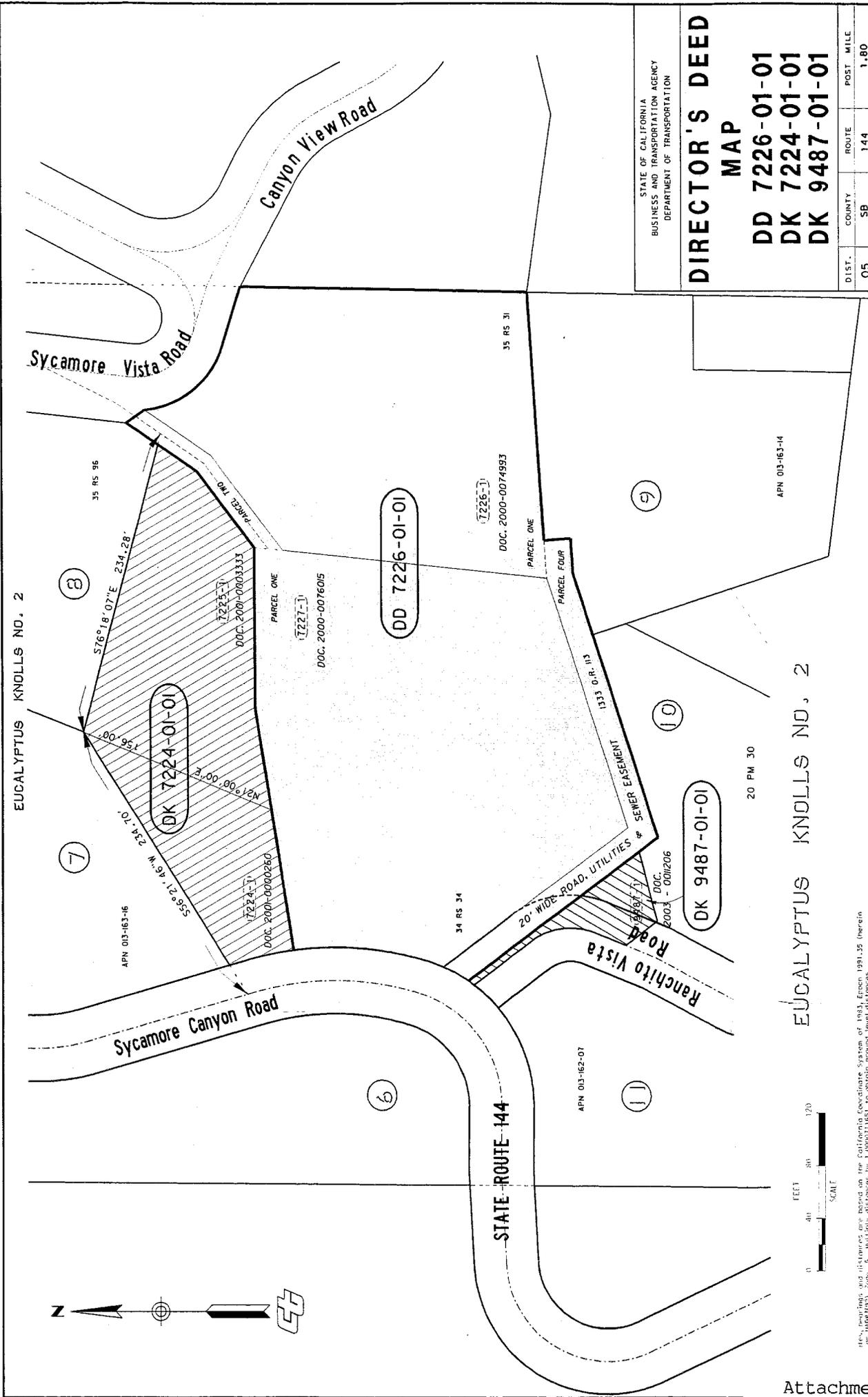
**SUMMARY OF DIRECTOR'S DEEDS 2.4d.(2)
PRESENTED TO CALIFORNIA TRANSPORTATION COMMISSION –September 2006**

Table I – Volume by Districts

District	Direct Sales	Public Sales	Non-inventory Conveyances	Other Funded Sales	Total Items	Current Estimated Value	Return From Sales	Recovery % From Sales Current Value
01						\$0	\$0	
02						\$0	\$0	
03						\$0	\$0	
04						\$0	\$0	
05	1					\$0	\$0	0%
06						\$0	\$0	
07						\$0	\$0	
08						\$0	\$0	
09						\$0	\$0	
10						\$0	\$0	
11						\$0	\$0	
12						\$0	\$0	
Total	1	0	0	0	1	\$0	\$0	0%

Table II – Analysis by Type of Sale

Type of Sale	# of Items	Current Estimated Value	Return From Sales	Recovery % Return from Sales Current Value
Direct Sale	1	\$0	\$0	0%
Public Sales	0	\$0	\$0	
Non-Inventory Conveyances	0	\$0	\$0	
Sub-Total	1	\$0	\$0	0%
Other Funded Sale	0	\$0	\$0	
Total	1	\$0	\$0	0%



STATE OF CALIFORNIA
BUSINESS AND TRANSPORTATION AGENCY
DEPARTMENT OF TRANSPORTATION

DIRECTOR'S DEED MAP

DD 7226-01-01
DK 7224-01-01
DK 9487-01-01

DIST.	COUNTY	ROUTE	POST MILE
05	SB	144	1.80

ALL bearings and distances are based on the California Coordinate System of 1983, Epoch 1991.35 (herein as MAP83). Zone 5. All tie distances by L08071151 to obtain ground level distances.

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